

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

SID MILLER, *et al.*

Plaintiffs,

v.

TOM VILSACK,

Defendant.

Case No. 4:21-cv-00595

**THE NATIONAL BLACK FARMERS ASSOCIATION AND
THE ASSOCIATION OF AMERICAN INDIAN FARMERS’
UNOPPOSED MOTION FOR LEAVE TO PROCEED WITHOUT LOCAL COUNSEL**

The National Black Farmers Association (NBFA) and the Association of American Indian Farmers (AAIF), by and through their undersigned attorneys, seek leave to proceed without the requirement of local counsel pursuant to Local Rule 83.10 and in support thereof state as follows:

1. NBFA and AAIF intend to file a Conditional Motion for Leave to Intervene as Defendants (the “Conditional Motion”) in this action. This lawsuit asserts constitutional challenges to provisions of the American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. (2021) that provide financial benefits to NBFA and AAIF’s members. NBFA and AAIF have an interest in defending the statutes challenged in this action on behalf of their members.

2. NBFA and AAIF’s Conditional Motion will ask the Court to defer consideration on the Conditional Motion until inadequacy of representation arises in this case. This approach seeks to secure NBFA and AAIF’s interest in timely filing an application to intervene, while also accounting for how merits arguments have yet to be developed due to the litigation’s early stage.¹

¹ See *Solid Waste Agency of N. Cook Cty. v. U.S. Army Corps of Engs.*, 101 F.3d 503, 509 (7th Cir. 1996) (“The proper way to handle such an eventuality [where the government’s representation of interest “may turn inadequate” at some future point] [is] to file at the outset of the case a standby or conditional application for leave to intervene and ask the district court to defer consideration of the question of adequacy . . .”).

3. Absent leave of Court, Local Rule 83.10(a) requires local counsel in all cases in which an attorney appearing in the case does not reside or maintain their principal office within 50 miles of the courthouse in the division in which the case is pending. *See* Declaration of Scott M. Hendler, attached as **Exhibit A**. ¶ 2

4. Therefore, NBFA and AAIF respectfully request that this Court grant leave for its counsel to proceed in this litigation without local counsel. NBFA and AAIF have retained Scott M. Hendler and Rebecca R. Webber, partners at Hendler Flores Law, PLLC, to represent them. *Id.* at ¶3

5. Hendler Flores Law, PLLC is a law firm based in Austin, Texas, and Mr. Hendler and Ms. Webber have extensive experience litigating in the federal courts (including federal courts in the State of Texas), and also have experience litigating constitutional issues in the federal courts. *Id.* at ¶4

6. Scott M. Hendler is a founding partner of Hendler Flores Law, PLLC, who resides in Austin, Texas. Mr. Hendler clerked for the Hon. Robert Porter (at the time, the Chief Judge of the Northern District of Texas) during the 1989-1990 term. *Id.* at ¶5

7. Mr. Hendler is admitted to practice in the following jurisdictions:

| JURISDICTION | YEAR ADMITTED |
|---|---------------|
| Supreme Court of Texas | 1989 |
| Supreme Court of Pennsylvania | 1990 |
| United States District Court for the Northern District of Texas | 1990 |
| United States Court of Appeals for the Eighth Circuit | 1990 |
| United States District Court for the Eastern District of Texas | 1991 |
| United States Court of Appeals for the Fifth Circuit | 1992 |

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|---|------|
| United States Court of Appeals for the Eleventh Circuit | 1992 |
| United States Court of Appeals for the Ninth Circuit | 1999 |
| United States Supreme Court | 2003 |
| United States District Court for the Southern District of Texas | 2007 |
| United States District Court for the Western District of Texas | 2007 |
| United States District Court for the District of Colorado | 2011 |
| United States Court of Appeals for the Third Circuit | 2013 |
| Supreme Court of Illinois | 2014 |
| Supreme Court of New Mexico | 2016 |
| United States Court of Appeals for the Second Circuit | 2018 |

Id. at ¶6

8. Rebecca R. Webber is a partner of Hendler Flores Law, PLLC, who resides in Austin, Texas. Ms. Webber is admitted to practice in the following jurisdictions:

| JURISDICTION | YEAR ADMITTED |
|---|----------------------|
| Supreme Court of Texas | 2007 |
| United States District Court for the Western District of Texas | 2008 |
| United States Court of Appeals for the Fifth Circuit | 2009 |
| United States District Court for the Southern District of Texas | 2009 |
| United States District Court for the District of Colorado | 2012 |
| United States Court of Appeals for the Third Circuit | 2015 |


9. Mr. Hendler and Ms. Webber's practice primarily consists of representing Plaintiffs in catastrophic personal injury and/or wrongful death lawsuits. *Id.* at ¶ 7

10. Mr. Hendler and Ms. Webber will be available to fulfill the duties of local counsel set out in Local Rule 83.10(b), presenting and arguing at any hearing held by this Court and performing any other duty required by this Court or set out in the Local Rules. *Id.* at ¶8

For the foregoing reasons, NBFA and AAIF respectfully request that they be granted leave to proceed without the requirement of local counsel pursuant to Local Rule 83.10.

Dated: June 9, 2021

Respectfully submitted,
HENDLER FLORES LAW, PLLC



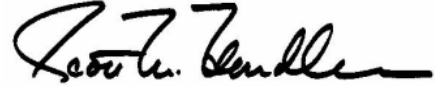
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***ATTORNEYS FOR THE NATIONAL
BLACK FARMERS ASSOCIATION AND
THE ASSOCIATION OF AMERICAN
INDIAN FARMERS***

CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for Plaintiffs on June 4, 2021. Plaintiffs' counsel does not oppose this Motion.

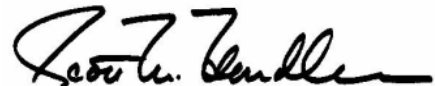
I certify that I conferred with counsel for Defendant on June 4, 2021. Defendant's counsel does not take a position on this Motion.

A handwritten signature in black ink, appearing to read "Scott M. Hendler", written over a horizontal line.

Scott M. Hendler

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was filed via the court's CM/ECF system on June 9, 2021, which will serve all counsel of record.

A handwritten signature in black ink, appearing to read "Scott M. Hendler", written over a horizontal line.

Scott M. Hendler